

108TH CONGRESS
1ST SESSION

H. R. 2221

To provide for availability of contact lens prescriptions to patients, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. BURR (for himself, Mr. TAUZIN, Mr. SENSENBRENNER, and Mr. MATHE-
SON) introduced the following bill; which was referred to the Committee
on Energy and Commerce

A BILL

To provide for availability of contact lens prescriptions to
patients, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness to Contact
5 Lens Consumers Act”.

6 **SEC. 2. AVAILABILITY OF CONTACT LENS PRESCRIPTIONS**
7 **TO PATIENTS.**

8 (a) IN GENERAL.—Upon completion of a contact lens
9 fitting, a prescriber—

1 (1) whether or not requested by the patient,
2 shall provide to the patient a copy of the contact
3 lens prescription; and

4 (2) shall, as directed by any person designated
5 to act on behalf of the patient, provide or verify the
6 contact lens prescription by electronic or other
7 means.

8 (b) LIMITATIONS.—A prescriber may not—

9 (1) require purchase of contact lenses from the
10 prescriber or from another person as a condition of
11 providing a copy of a prescription or verification of
12 a prescription under subsection (a);

13 (2) require payment in addition to the examina-
14 tion fee as a condition of providing a copy of a pre-
15 scription or verification of a prescription under sub-
16 section (a); or

17 (3) require the patient to sign a waiver or re-
18 lease as a condition of verifying or releasing a pre-
19 scription.

20 **SEC. 3. EXPIRATION OF CONTACT LENS PRESCRIPTIONS.**

21 A contact lens prescription shall expire—

22 (1) on the date specified by the law of the State
23 involved, if that date is one year or more after the
24 issue date of the prescription;

1 (2) not less than one year after the issue date
2 of the prescription if such State law specifies no
3 date or a date that is less than one year after the
4 issue date of the prescription; or

5 (3) notwithstanding paragraphs (1) and (2), on
6 the date specified by the prescriber, if that date is
7 based on the medical judgment of the prescriber
8 with respect to the ocular health of the patient.

9 **SEC. 4. CONTENT OF ADVERTISEMENTS AND OTHER REP-**
10 **RESENTATIONS.**

11 Any person that engages in the manufacture, proc-
12 essing, assembly, sale, offering for sale, or distribution of
13 contact lenses may not represent, by advertisement, sales
14 presentation, or otherwise, that contact lenses may be ob-
15 tained without a prescription.

16 **SEC. 5. PROHIBITION OF CERTAIN WAIVERS.**

17 A prescriber may not place on the prescription, or
18 require the patient to sign, or deliver to the patient a form
19 or notice waiving or disclaiming the liability or responsi-
20 bility of the prescriber for the accuracy of the eye exam-
21 ination.

22 **SEC. 6. VIOLATIONS.**

23 Any violation of this Act shall be treated as a viola-
24 tion of a rule under section 18 of the Federal Trade Com-

1 mission Act (15 U.S.C. 57a) regarding unfair or deceptive
2 acts or practices.

3 **SEC. 7. STUDY AND REPORT.**

4 (a) STUDY.—The Federal Trade Commission shall
5 undertake a study to examine the strength of competition
6 in the sale of prescription contact lenses. The study shall
7 include an examination of the following issues:

8 (1) The States that have laws that require ac-
9 tive or passive verification for the sale of contact
10 lenses.

11 (2) With respect to the States that require ac-
12 tive verification, the practices of prescribers in com-
13 plying with State law, the effect of noncompliance,
14 and the harm to competition and consumers that re-
15 sults from noncompliance.

16 (3) With respect to the States that require ac-
17 tive verification, the level of enforcement and any
18 problems relating to enforcement.

19 (4) The impact on competition of verification
20 standards adopted by retail sellers of prescription
21 contact lenses.

22 (5) With respect to States that require passive
23 verification or have no applicable verification laws,
24 the possible effect of such laws or lack thereof on
25 the ocular health of patients. In addition, the effect

1 of such laws or lack thereof on compliance by sellers
2 in confirming valid contact lens prescriptions, includ-
3 ing expiration dates. The Commission shall consult
4 the Food and Drug Administration on this par-
5 ticular issue.

6 (6) The incidence, if any, of contact lens pre-
7 scriptions that specify brand name or custom labeled
8 contact lenses, the reasons for the incidence, and the
9 effect on consumers and competition.

10 (7) Any other issue that has an impact on com-
11 petition in the sale of prescription contact lenses.

12 (b) REPORT.—Not later than 9 months after the date
13 of the enactment of this Act, the Chairman of the Federal
14 Trade Commission shall submit to the Congress a report
15 of the study required by subsection (a).

16 **SEC. 8. DEFINITIONS.**

17 As used in this Act:

18 (1) CONTACT LENS FITTING.—The term “con-
19 tact lens fitting” means the process that begins after
20 the initial eye examination and ends when the pre-
21 scriber is satisfied that a successful fit has been
22 achieved or, in the case of a renewal prescription,
23 ends when the prescriber determines that no change
24 in prescription is required, and such term may
25 include—

1 (A) an examination to determine lens spec-
2 ifications;

3 (B) except in the case of a renewal of a
4 prescription, an initial evaluation of the fit of
5 the lens on the eye; and

6 (C) medically necessary followup examina-
7 tions.

8 (2) PRESCRIBER.—The term “prescriber”
9 means, with respect to contact lens prescriptions, an
10 ophthalmologist, optometrist, or other person per-
11 mitted under State law to issue prescriptions for
12 contact lenses in compliance with any applicable re-
13 quirements established by the Food and Drug Ad-
14 ministration.

15 (3) CONTACT LENS PRESCRIPTION.—The term
16 “contact lens prescription” means a prescription,
17 issued in accordance with State and Federal law,
18 that contains the specifications necessary for a pa-
19 tient to obtain contact lenses and may include such
20 items as the following:

21 (A) The name of the patient.

22 (B) The date of the examination.

23 (C) The issue date and the expiration date
24 of the prescription.

1 (D) A clear notation contact lenses are
2 suitable for the patient.

3 (E) The parameters and instructions that
4 are necessary for manufacture and duplication
5 of the lenses.

6 (F) The name, postal address, telephone
7 number, and facsimile telephone number of the
8 prescriber.

9 (G) The expiration date of the prescrip-
10 tion.

11 **SEC. 9. EFFECTIVE DATE.**

12 This Act shall take effect 60 days after the date of
13 the enactment of this Act.

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